

In his Complaint Plaintiff alleges that the Defendants are hindering his access to the courts. More specifically, Plaintiff asserts that twice he mailed a “legal fraud malpractice suit” to the Burke County Clerk’s Office. However, each time his programmer telephoned to check on the status of the case, the programmer was informed that there was no record of any such case being filed with the court. Plaintiff alleges that he then sent via certified mail yet another copy of his “legal fraud malpractice suit.” Plaintiff alleges that Bill Crump, a mail clerk at the court, signed for the document. Nevertheless, when a call was placed to confirm the filing of the case, Mable Lowman, the senior clerk, stated that the court had not received the paperwork in question and that there was no record of any case so captioned being filed with the court. Plaintiff asserts that the Defendants, Mable Lowman and Bill Crump, have violated his constitutional rights by limiting his access to the courts. Plaintiff seeks \$ 75, 000.00 in compensatory damages and one million dollars in punitive damages.

Even taking all of Plaintiff's allegations as true, Plaintiff's Complaint simply does not state a claim against the Defendants. Plaintiff's sole allegation against Mable Lowman is that she answered a telephone call, checked the court records, and was unable to find any indication that his Complaint had been filed. Plaintiff provides no facts, and indeed does not even allege, that Mable Lowman was responsible for his Complaint not being filed. Plaintiff attributes no actions or inactions to Mable Lowman that impeded his access to the courts. As such, Plaintiff has failed to state a claim against Mable Lowman.

Likewise, Plaintiff's only allegation against Bill Crump is that he signed the certified mail receipt for Plaintiff's last mailing. Although this allegation establishes that Bill Crump received Plaintiff's mailing, it in no way alleges that Bill Crump took any action or inaction to deprive Plaintiff of his right to access the courts. See Daniels v. Williams, 474 U.S. 327, 330 (1995)(Due Process clause is not implicated by a negligent act of an official). Moreover, lawsuits may not be filed on pure speculation.

IT IS THEREFORE ORDERED that Plaintiff's Complaint is **DISMISSED** for failure to state a claim.

Signed: August 13, 2008

A handwritten signature in black ink, appearing to read "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
United States District Judge

